

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING / GENERAL MEETING  
JULY 7, 2015**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:  
Cameron, Cunningham, Olvany, Sini, Jr., Voigt

STAFF ATTENDING: Ginsberg, Keating  
RECORDER: Syat  
Channel 79

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Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

**PUBLIC HEARING**

**Special Permit Application #289, Gold Coast Children's Center, 972 Boston Post Road.**  
Request to establish a personal service business on the third floor of the existing building. The subject property is situated on the south side of Boston Post Road, approximately 150 feet west of its intersection with Center Street and is shown on Assessor's Map #72 as Lot #5, in the CBD Zone.

Ms. Cameron noted that Planning & Zoning Commission had received a memorandum from the Board of Selectman as the Traffic Authority. Attorney Mike Ceccorulli of Pullman & Comley, LLC explained that the proposed third floor use will involve two Board Certified professionals providing individualized counseling services to patients on a one-on-one basis. He said occasionally the parent or parents of the patient may sit in. He said this is very similar to a medical office in that they are providing clinical services to their patients. He said that based on the fact that there are two professionals in the office each with a client, they would generally only have four people in the office. However, they do have room to have four professionals, each with a client and therefore, they could have a total of eight people in the office at any time. They will occupy approximately 8,900 square feet in total. Ms. Mestorcia explained that she is a clinical psychologist with a PhD. Her specialized field within psychology is treating young people with learning problems. Robert Maslan spoke in support of the application.

There were no other questions from the Commission. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

**Continuation of Public Hearing regarding Coastal Site Plan Review #302-A, Land Filling & Regrading Application #352, David & Rhonda Sherwood, 245 Long Neck Point Road.** Proposing to construct a pool, spa, patio, and pool cabana; install associated stormwater management; and to perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road approximately 2,600 feet south of its southernmost

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intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #13-2 in the R-1 Zone.

Attorney Bruce Hill represented the Sherwoods and noted that the public hearing had been continued from June 9, 2015. He said the proposal involves construction of a pool and a pool cabana, portions of which will be within the 100 foot critical Coastal Area Management (CAM) area adjacent to Mean High Water. He said that no portion of the proposed development is in the Flood Hazard Zone. All of the work area is designated as Zone X on the Flood Maps because it is at or above Elevation 20. He said that much of the Open Space area is in the Flood Hazard Zone because it is at or below Elevation 15. He said that no work is taking place in the Open Space area. He said that there is no impact on any coastal resources. He said that the area was previously a building that was demolished as part of the subdivision approval approximately 40 years ago. At that point it was turned into lawn.

Attorney Hill said that one of the concerns expressed was the possibility of rotating the pool approximately 90 degrees so that there would be less work within the 100 foot CAM area. He said his clients do not desire to have the pool rotated. He submitted a Federal Emergency Management Agency (FEMA) information sheet regarding construction work in the Flood Zone. It recommends having the narrowest portion of the pool perpendicular to the flood waters. There were questions from Commission members regarding the relevancy of this information since Attorney Hill had just finished saying that the work is not within the Flood Hazard Area. Attorney Hill said that the orientation of the pool perpendicular to the flood waters is a proper orientation for coastal resources as well.

Attorney Hill said that the Zoning Enforcement Officer's position is that the setback requirements for the pool and cabana should be measured from the line which divides the Open Space parcel from the building lot. Attorney Hill said on the original subdivision it is shown as three parcels but it has been taxed as a single lot for 40 years. He said a mylar map to be filed in the Darien Land Records has been prepared to show the consolidation of the separate parcels into one piece of land and that map has been submitted to the Director of Planning. Attorney Hill also noted that a revised planting plan has been submitted.

Ms. Cameron said that the information submitted indicates that the soils in the area are very compacted and she expressed concern about their ability to absorb water through the storm water detention system. She is also concerned about regrading and excavation so close to the sea wall. She is concerned that excavation in that area will make the sea wall more susceptible to damage during the construction and in any subsequent storms.

Alan Sheppard, Professional Engineer, said that there are numerous areas of compacted soils on this site. This is probably due to the fact that it was previously developed and then the old buildings were removed and the site was substantially modified. He said that the proposed pool and pool cabana work will be at Elevation 20 and that from the top of the riprap embankment at the edge of the property to the pool and cabana excavation will be 30 – 35 feet. He said that the 1% chance flood line (what used to be referred to the 100 year storm flood line) was transposed from different scale maps and on the submitted map it looks closer than it would really be to the excavation.

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Mr. Olvany asked about the depth of the pool closest to the Flood Zone. He said that if the pool depth in that area would be eight feet, that means the bottom of the pool would be approximately at Elevation 11 and the bottom of the culvert units would be at approximately Elevation 14 or so, both of which are below the Flood Level.

Mr. Voigt said that part of the Coastal Site Plan review process is the visual impact of the proposed development. He said the pool cabana and possibly even the pool might be visible from coastal waters. Attorney Hill said that since the view of the proposed structures would be against the view of the house under construction, it would be zero impact to visual appearance.

Planning Director Jeremy Ginsberg said that he referred the issue of the Open Space parcel to the Town attorney, who has not yet submitted any comment. Zoning Enforcement Officer David Keating said that only the Planning & Zoning Commission can merge the specifically approved Open Space parcel with the separate building lot that had been approved by the Planning & Zoning Commission. He said merging the two parcels would allow development activity within the 100 CAM area that was not shown as being developable land on the original subdivision. He said that merging the Open Space with the building lot would allow more development in the critical 100 foot coastal area that had been restored to a more natural condition compared to the old building that had been in that vicinity. Attorney Hill said that Mr. Keating is creative about what the Commission did in 1976 as part of the subdivision approval, and claimed there is no factual basis for Mr. Keating's opinion. Attorney Hill said that the Open Space Declaration that currently restricts development activity on the Open Space parcel would remain unchanged because it is an encumbrance on the land. He said that the Open Space parcel and the building lot have always been conveyed as a unified property.

Commission members felt they did not have sufficient information regarding the Open Space parcel merger issue and wanted to continue the public hearing. Attorney Hill said he would grant an extension for the continuation of the public hearing. Commission members agreed to continue the public hearing on July 28, 2015 at 8 P.M. in Room 206 of Town Hall.

Chairman Cameron read the following agenda item:

**Coastal Site Plan Review #256-A, Flood Damage Prevention Application #287-A, Melissa B. Hubner, 9 Butler's Island Road.** Proposing to repair and replace the existing septic system and to perform related site activities within regulated areas. The subject property is situated on the north side of Butler's Island Road, approximately 900 feet east of its intersection with Tokeneke Beach Drive and is shown on Assessor's Map #67 as Lot #69, in the R-1 Zone.

Doug DiVesta, Professional Engineer, said that the existing septic system on the property is failing and needs to be replaced. They have investigated numerous options and alternatives regarding the replacement and in order to have the minimal impact possible they are using a special air injection pumping system to create the septic system for a four bedroom house. Some of that septic system is within the 100 foot critical area as designated by the Coastal Area Management (CAM) program. Some of the septic system needs approximately three feet of fill. In response to a question, he said that there would be no retaining wall on the down slope side because that would cause other issues regarding the Health Code.

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Ms. Hubner, the owner of the property, said that the septic system replacement needs to be done quickly. Mr. DiVesta said they are anxious to get the situation corrected as soon as possible and they hope that the Planning & Zoning Commission will take action at the next available meeting.

There were no questions or comments from the public and there were no questions from the Commission members. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

**Land Filling & Regrading #358, Elk Homes Partners II LP, 15 Gardiner Street.** Proposing to excavate and regrade to construct a new driveway adjacent to the south property line in association with the construction of a replacement residence, and perform related site development activities. The subject property is located on the west side of Gardiner Street approximately 100 feet north of its intersection of Concord Lane, and is shown on Assessor's Map #46 as Lot #38 in the R-1/3 Zone.

John Heagney represented the property owner and explained that they plan to demolish the existing house and build a new house to comply with the Regulations. A new wider driveway will provide access from Gardiner Street into the site.

Bryan Muller of Soundview Engineers & Surveyors said that a new drainage plan has been submitted. They used an open undeveloped or meadow-like condition for the calculations of the base flow of storm water runoff. The installation of the new drainage system will result in a reduction of the runoff leaving the site. He said that they have revised the plan to reduce the back-up area from the garage to only 25 feet so that a new revised retaining wall can be placed near the southerly property boundary line but far enough away from the existing trees so that they will not impact those trees.

Mr. Heagney said that the new house will be approximately 30 feet tall and about 4,000 square feet in area. He said that the average grade around the new house will be raised slightly compared to the existing house.

Mr. Ginsberg said that the applicant has obtained a variance of the lot width and lot depth from the Zoning Board of Appeals. No height variance was requested or necessary.

Mark Beaven of 2 Concord Lane said that he is concerned about the trees near his north property line, which is the south boundary line of the subject property. Mr. Beaven said that he understands that they have revised the plans to protect and preserve those trees. Mr. Muller submitted a copy of the July 7, 2015 letter from Jane DiDona, landscape architect, concerning the preservation of the sixteen (16) Leyland Cypress trees along that common property line.

There were no further comments or questions from the public or Commission members. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

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Chairman Cameron read the following agenda item:

**Land Filling, Excavation, & Regrading Application #359, Bryant & Meghan Shain, 7 Devon Road.** Proposal to regrade the back yard, and create an associated five foot high retaining wall and perform related site activities. The subject property is situated on the north side of Devon Road, approximately 320 feet east of its intersection with Stanley Road and is shown on Assessor's Map #24 as Lot #84, in the R-1/3 Zone.

Robert Frangione, Professional Engineer, represented the applicant and explained that they are proposing to regrade the site to create more flat backyard area. This will create more usable play area for the children. The new retaining wall will still be about 15 feet from the northerly property line and the existing vegetation in the area between the property line and the retaining wall will remain intact. Mr. Frangione said that a drainage analysis has been performed and storm water collected behind the retaining wall will be discharged into the back yard of the site. From there it will slowly drain on the surface toward the street, as it does today.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

Chairman Cameron opened the General Meeting at 10:10 P.M. and read the following agenda item:

**GENERAL MEETING**

**Kensett.**

Informal discussion regarding potential development of Phase II.

Bob Dale, one of the partners, said that he wanted to have an informal dialog with the Commission regarding the design for the second phase of Kensett. They have purchased a three-family house on Hoyt Street at the intersection of Wakemore Street. They plan to deed restrict it as three affordable housing units. They will then propose 14 new units within the Kensett development because there has been a demand for more units. He said that approximately 70% of the buyers of the Kensett units are empty nesters or couples or individuals with no children. He and his partners will commit to having detailed floor plans with elevators in each unit and meeting the Universal Design Guidelines for easy adaptability for handicapped and senior living. They will also revise and maintain the website and other marketing materials to eliminate emphasis on the school system and they will emphasize the many services to seniors that the Town provides. Mr. Dale said that they have met with the neighbors to discuss their preliminary plans for the 14 new units proposed at the southeast corner of the Kensett site. They will be adjacent to, but not accessed from, the northeast end of Wakemore Street. The new units will be approximately 3,900 square feet each. The 14 new units would not be age restricted but would be age targeted.

Mr. Dale said that near Hoyt Street, at the southwest end of Wakemore Street, near the existing three-family house that will be converted to affordable housing units, they will be adding a bus stop type shelter and adding some pull off parking spaces adjacent to the road to accommodate parents

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waiting for the school bus. The three affordable housing units at the corner of Wakemore Street and Hoyt Street will have limited on-site parking and therefore, they will have a limit on the number of cars for each unit based on the lease. He said that they would be willing to age restrict the affordable housing units; however, it does not make sense to have an age restricted, third floor walk-up unit.

Bill McGuinness said that the Universal Design Guidelines for Mobility make it easier for residents to accommodate the dwelling as mobility becomes more of an issue. He said that the inclusion of elevators in the units has become better accepted today than in the past. In response to questions, he said that families do not ask for elevators but the empty nesters who are getting older do ask about the availability of an elevator or the ability to easily install an elevator in the future. Mr. Voigt asked what other options there are to focus the appeal of these 14 new units to empty nesters. Mr. Dale said it is not possible to assure that they are only appealing to empty nesters. Bill McGuinness said that the floor plan has three bedrooms with a large master bedroom. Sixty percent of the units have the master bedroom on the second floor and many of the empty nesters like that because it leaves a large formal entertaining area on the ground floor so that they can have guests.

No decision was made because no application has been submitted. If Commission members think of comments, they will convey them to Mr. Ginsberg who will forward them to the developers.

Chairman Cameron read the following agenda item:

**Mandatory Referral #2-2015, Knobel Hill, LLC, 40 Locust Hill Road.**

Request for sanitary sewer extension along Locust Hill Road.

*DEADLINE TO ISSUE REPORT: JULY 22, 2015.*

Commission members reviewed the draft report regarding the proposed extension of the sanitary sewer system. After a brief discussion, the following motion was made: That the Planning & Zoning Commission adopt the draft report and submit it to the Board of Selectman and Sewer Commission. The motion was made by Mr. Olvany, seconded by Mr. Cunningham and unanimously approved. The report reads as follows:

**DARIEN PLANNING AND ZONING COMMISSION  
C.G.S. SECTION 8-24 MANDATORY REFERRAL REPORT  
KNOBEL HILL, LLC,  
40 LOCUST HILL ROAD  
JULY 7, 2015**

**Mandatory Referral # 2-2015, Knobel Hill, LLC, 40 Locust Hill Road.**

Request for sanitary sewer extension along Locust Hill Road.

At the June 23, 2015 meeting, this proposal was discussed along with the submitted June 17, 2015 letter and attachments from Attorney Robert Maslan. The proposal is for a sanitary sewer line extension in Locust Hill Road to the west of the intersection of Old Farm Road and Tokeneke Road. The preliminary/conceptual design has been approved by the Sewer Commission.

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The proposal is consistent with the Planning and Zoning Commission's recent approval of the development at the intersection of Locust Hill Road and Settlers Trail. It is also consistent with the 2006 Town Plan of Conservation and Development and town policies.

The applicant must now work with the Sewer Commission to finalize all of the engineering and contractual details and to obtain final approval from the Sewer Commission.

Chairman Cameron read the following agenda item:

**Flood Damage Prevention Application #240-B, Thomas P. Mullaney, Trustee, 9 Contentment Island Road.** Request for additions/alterations to the existing residence within a regulated area.

Commission members reviewed the submitted application materials. They noted that Attorney Maslan had notified the neighboring property owners and that the amount of work within the Flood Hazard Zone is very minimal. It will consist of two support pilings and a chimney and a staircase. The work does need Planning & Zoning Commission review and approval. After further discussion, the following motion was made: That the Planning & Zoning Commission approve the proposed development at 9 Contentment Island Road in accordance with the submitted plans and application materials. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

Chairman Cameron read the following agenda item:

*Deliberations and possible decisions on the following matters:*

**Business Site Plan #24-X/Special Permit, C2 Education, 25 Old King's Highway North (Goodwives Shopping Center).** Proposal to establish C2 Education as a personal service use within Goodwives Shopping Center in a 2,458+/- square foot space formerly occupied by Learning Express.

The following motion was made: That the Planning & Zoning Commission waive the process of reading all the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Voigt, seconded by Mr. Cunningham and unanimously approved.

Commission members reviewed the draft resolution and made several minor clarifications and corrections. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. Cunningham and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 7, 2015**

Application Number: Business Site Plan Application #24-X/Special Permit  
C2 Education

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Street Address: 25 Old King's Highway North (Goodwives Shopping Center)  
Assessor's Map #71 Lot #19

Name and Address of Applicant & John Thomas/Brad Arnow  
Applicant's Representative: C2 Education  
6465 E. John's Crossing, Ste. 100  
Duluth, GA 30097

Name and Address of: UB Darien Inc.  
Property Owner: Urstadt-Biddle Properties, Inc.  
321 Railroad Avenue  
Greenwich, CT 06830

Activity Being Applied For: Proposal to establish C2 Education as a personal service use within Goodwives Shopping Center in a 2,458+/- square foot space formerly occupied by Learning Express.

Property Location: The subject site is located within Goodwives Shopping Center, which is located on the south side of Old King's Highway North, approximately 150 feet southwest of its intersection with Brookside Road.

Zone: DC

Date of Public Hearing: June 23, 2015

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: June 12 & 19, 2015

Newspaper: Darien News

Date of Action: July 7, 2015

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
July 17, 2015

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 630, 904, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.

- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted information, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.



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- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to establish C2 Education as a personal service use within Goodwives Shopping Center in a 2,458+/- square foot space formerly occupied by Learning Express. No change in the building footprint is proposed.
2. C2 Education is considered a Personal Service use, which requires special Permit approval under Section 634g of the Darien Zoning Regulations in the DC Zone. As noted within the submitted application materials, students arrive for either class times or for private tutoring.
3. As part of the application materials, general hours of operation were noted. The Commission acknowledges that the site of this proposed business is in an existing building in a commercial zone, with no outdoor activity or music that could disrupt adjacent businesses. It does not appear that any restriction or limits on hours are needed.
4. According to the Darien Zoning Regulations, the shopping center would require a total of approximately 1,000 on site parking spaces, but there are approximately 465-486 parking spaces for the 96,000+/- square foot building on the subject property. As part of previous applications for the Goodwives Shopping Center, the Planning and Zoning Commission made a finding under Section 904 of the Darien Zoning Regulations that due to the unique nature of the Goodwives Shopping Center, the parking is adequate. The proposed use might be more parking intense than typical retail stores, but because they are only leasing a small portion of the Shopping Center (about 2,458+/- square feet), the Commission finds that no increase in parking spaces would be necessary. The Commission also finds that the proposed capacity of the on-site parking will meet the intent of the regulations.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #24-X/Special Permit is hereby approved subject to the foregoing and following conditions, modifications and understandings:

- A. The Commission hereby approves the proposed Personal Service use as described in the application materials and at the Public Hearing. Final details of the floor plan may be modified subject to final approval by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official. Any final floor plans and use of the space must be consistent with representations made at the public hearing by the applicant, and this resolution.
- B. As proposed by the applicant at the public hearing and as outlined within the written submitted application materials, the Commission hereby limits the use to a maximum of no more than 15 students and 5 instructor/employees at any time. This limit is required by the Commission so as to minimize potential parking and traffic impacts on other businesses within Goodwives Shopping Center. Any change to this limit will require review and action by the Commission.

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- C. Because of the nature of the business which is entirely indoors, and the unique location of Goodwives Shopping Center within a commercial zone, and the location of this space within the shopping center, the Commission places no limits on the maximum hours of operation.
- D. There is no new impervious surface created as part of this application, and thus, the Commission waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- E. If needed, the applicant shall use the trash area and dumpsters located behind the building. If used by this tenant, the tenant shall work with others to keep it neat and orderly.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. Any desired signage requires review and action by the Architectural Review Board (ARB).
- H. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (July 7, 2016). This may be extended as per Section 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final approved plans by the Chairman, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

**Coastal Site Plan Review #288-B, Flood Damage Prevention Application #329-B, Land Filling & Regrading Application #308-B, John & Jeanne-Marie Scura, 27 Brush Island Road.**

Proposing to raze the existing residence and garage/studio and construct a replacement residence with associated patio and pool, served by an on-site septic system and municipal water service, and to perform related site development activities within regulated areas.

Commission members reviewed the draft resolution and the following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
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Application Number: Coastal Site Plan Review #288-B  
Flood Damage Prevention Application #329-B  
Land Filling & Regrading Application #308-B

Street Address: 27 Brush Island Road  
Assessor's Map #56 Lot #16

Name and Address of Applicant & John & Jeanne-Marie Scura  
Property Owners: 27 Brush Island Road  
Darien, CT 06820

Name and Address of Tom Nelson, PE  
Applicant's Representative: McChord Engineering  
1 Grumman Hill Road  
Wilton, CT 06897

Activity Being Applied For: Proposing to raze the existing residence and garage/studio and construct a replacement residence with associated patio and pool, served by an on-site septic system and municipal water service, and to perform related site development activities within regulated areas.

Property Location: The subject property is situated on the north side of Brush Island Road, approximately 1,350 feet west of its intersection with Nearwater Lane.

Zone: R-1

Date of Public Hearing: June 23, 2015

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: June 12 & 19, 2015

Newspaper: Darien News

Date of Action: July 7, 2015

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
July 17, 2015

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to raze the existing residence and garage/studio and construct a replacement residence with associated patio and pool, served by an on-site septic system and municipal water service, and to perform related site development activities within regulated areas. The proposed six bedroom residence will be served by an on-site septic system. The existing house and garage /studio are both located in the flood hazard area and are both below the expected flood elevation of 14 above North American Vertical Datum 1988 (NAVD 88). The proposed filling and regrading will result in a buildable area that is at elevation 14.5 or greater so that the new house will be entirely above the expected flood elevation. The applicant will then seek to obtain a Letter of Map Revision (LOMA) from the Federal Emergency Management Agency (FEMA) so that the house site will be outside of the flood hazard area.
2. The Environmental Protection Commission (EPC) approved this project as part of EPC #13-2015 on May 6, 2015. That approval is hereby incorporated by reference.
3. This application was referred to the State of CT DEEP. They responded in an e-mail dated May 5, 2015 that they have reviewed the proposal, and find no inconsistencies.
4. Some of the proposed work will involve filling and regrading around the proposed structure so that the structure will no longer be in the Flood Zone. The work is also within the 1,000 foot regulated area established by the Coastal Area Management Program. At the public hearing, it was represented that the portion of the driveway that is currently gravel will remain gravel.
5. A rain garden is proposed to address stormwater quality. The proposed landscaped raingarden is the only development activity within the 100 foot critical area adjacent to Holly Pond.
6. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
7. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
8. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
9. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
10. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

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NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #288-B, Flood Damage Prevention Application #329-B and Land Filling & Regrading Application #308-B are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
- Topographic & Zoning Location Survey 27 Bruch Island prepared for John J. Scura III Jeanne-Marie Scura, by William W. Seymour & Associates, last revised May 15, 2015.
  - Septic System/Site Development Plan 27 Brush Island Road, by McChord Engineering Associates, Inc., dated April 22, 2015, last revised 5-15-15, Drawing No SE-1.
  - Construction Notes and Details 27 Brush Island Road, by McChord Engineering Associates, Inc., dated April 22, 2015, last revised 5-15-15, Drawing No SE-2.
  - 27 Brush Island, by Arpita Muchhal Design Sheets A0.00 through A2.05.
- Salt-tolerant plant species shall be included in the rain garden.
- B. During construction, the applicant shall utilize the sediment and erosion controls and tree protection illustrated on the "Site Plan" in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- D. The Zoning and Building Permit for the foundation only for the proposed residence shall be issued upon proper application. Once the foundation has been installed and the regrading around the foundation has been accomplished, an as-built survey illustrating the location and elevation of the foundation and the regrading around the foundation shall be submitted to verify that no part of the house or foundation are within the flood hazard zone. Only then can the Zoning and Building Permits be obtained for the house above the foundation level. The applicant is responsible for obtaining the Letter of Map Revision (LOMR) or similar approval from FEMA. The applicant shall provide a copy of this approval to the Commission for the file prior to the use of, or request for the issuance of a Certificate of Occupancy for the proposed residence.
- E. The applicant's engineer shall prepare a Drainage Maintenance Plan for the rain gardens, and submit that Plan prior to the issuance of a Zoning or Building Permit. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the proposed new residence.
- F. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the

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request for the Certificate of Occupancy for the new residence, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system (rain garden) that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.

- G. Once the project is complete, and prior to June 23, 2016, the applicant shall submit a final “as built” map and/or other evidence that all work has been properly completed in accordance with the approved plans.
- H. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes the requirement for a Demolition Permit from the Building Department, and Zoning Permit and Building Permits for the new, replacement house. Darien Health Department approval is also required.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- J. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 7, 2016). This may be extended as per Sections 815 and 829f.

A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days and prior to the issuance of a Zoning and Building Permit for the new residence.

Chairman Cameron read the following agenda item:

**Land Filling & Regrading Application #357, Julie Pagnozzi, 87 Old King’s Highway South.**  
Request to allow the placement of fill, regrading, and an associated retaining wall constructed within fifteen feet of a property line to remain.

Commission members reviewed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. Cunningham and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 7, 2015**

Application Number:                      Land Filling & Regrading Application #357

Street Address: 87 Old King’s Highway South  
Assessor's Map #63 Lot #78

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Name and Address of Applicant & Julie Pagnozzi  
Property Owner: 87 Old King's Highway South  
Darien, CT 06820

Activity Being Applied For: Request to allow the placement of fill, regrading, and an associated retaining wall constructed within fifteen feet of a property line to remain as it is.

Property Location: The subject property is situated on the south side of Old King's Highway South, approximately 600 feet west of its intersection with Andrews Drive.

Zone: R-1/2

Date of Public Hearing: June 23, 2015

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: June 12 & 19, 2015

Newspaper: Darien News

Date of Action: June 23, 2015

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
July 3, 2015

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plan, and the statements of the applicants whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to allow the filling and regrading that occurred in the side and rear yard to remain as it is. The proposed residence will connect to public water and sewer. This is an "after-the-fact" permit request, as the work was completed within the past few months.

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2. Part of the filling and regrading is within 50 feet of the wetland on the neighbor's property. The EPC approved this project on June 3, 2015 as part of EPC #19-2015. That approval is hereby incorporated by reference.
3. At the public hearing, testimony was received from Robert Calve of Fox Hill Builders. He explained how the project was completed with the goal of minimizing water flow onto the adjacent neighbors' properties. To accomplish this, they installed curbing on or near the property line to prevent water from the Pagnozzi site from flowing toward the neighbor. The curbing directs the water down the Pagnozzi driveway toward the street. He explained that the work is now complete, and the site has been stabilized. He noted that he can install a catch basin to collect some of the storm water from the driveway and connect it into the existing on-site Cultec units if the Commission requires such.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #357 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Work has been completed in accordance with the plan submitted to and reviewed by the Commission entitled:
  - Zoning Location Survey of property prepared for Julie Pagnozzi, #87 Old Kings Highway South, by Arcamone Land Surveyors, LLC, dated September 27, 2011 and last revised 05/28/2015 showing wall and elevations.

No additional filling or regrading is allowed or authorized.
- B. In order to minimize potential impacts of stormwater, the Commission hereby requires the applicant to install a catch basin in or near the driveway and to tie into the existing on-site Cultec units prior to the issuance of a Certificate of Occupancy for the existing residence.
- C. A plan for the maintenance of the drainage system, including periodic inspections and clean out, shall be prepared by/for the applicant and submitted for the Commission's file. It shall be the responsibility of the current and future owners of the property to maintain the drainage system in proper functioning order.
- D. Because of the minor nature of the site work involved in this project, and the fact that the work has been accomplished, the Commission hereby waives the requirement for a performance bond.
- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive,



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incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.

- G. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 7, 2016). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days and prior to the issuance of a Certificate of Occupancy for the house.

Chairman Cameron read the following agenda item:

**Request to amend/clarify Business Site Plan # 168-F, Equity One, LLC / Trader Joe's, 430 Boston Post Road.** Request to amend/clarify stipulation H regarding completion of improvements prior to occupancy.

Commission members reviewed the request by Attorney Wilder Gleason regarding the Stipulation H of the recent approval. They understand that the Department of Transportation timing to approve and implement changes might be slower than the time it takes to renovate the store and get ready for re-occupancy of the store. The following motion was made: That the Planning & Zoning Commission modify Stipulation H of the recent approval in accordance with the July 2, 2015 letter from Attorney Wilder Gleason. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

**Approval of Minutes**

*May 5, 2015      Public Hearing/General Meeting*

Modifications and clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission approve the minutes as revised. The motion was made by Mr. Cunningham and seconded by Mr. Olvany. All voted in favor except Ms. Cameron, who had not been present at the May 5 meeting.

*May 12, 2015      Public Hearing/General Meeting*

Several clarifications and corrections were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the minutes as revised. The motion was made by Mr. Olvany and seconded by Mr. Cunningham. All voted in favor except Mr. Sini and Ms. Cameron because they had not been at the May 12 meeting.

*May 26, 2015      General Meeting*

Several clarifications and corrections were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the minutes as revised. The motion was

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made by Mr. Voigt and seconded by Mr. Sini. All voted in favor except Mr. Cunningham and Mr. Olvany who had not been present at the meeting.

**Any Other Business (Requires two-thirds vote of Commission)**

Mr. Ginsberg asked that the Commission consider a clarification of the Regulations under Other Business. The motion to discuss Section 436 of the Regulations was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Mr. Ginsberg explained that the recent modification of the Regulations regarding the housing project at Locust Hill Road and Settler's Trail had referred to Section 436a, when in fact it should have referred to Section 436b. Commission members discussed the specific Regulations and agreed that the typographical error in the Resolution needs to be corrected. They authorized Mr. Ginsberg to make the correction.

There being no further business, the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved. The meeting was adjourned at 9:55 P.M.

Respectfully submitted,

David J. Keating  
Planning & Zoning Assistant Director

*07.07.2015min*